

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 IO-10 ISO-00 GSA-01 AGR-05 CEA-01

CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07 INT-05

L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05 CIEP-01 SS-15

STR-04 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02 FEAE-00

OMB-01 /103 W

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FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC PRIORITY 9562

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

USMISSION GENEVA

USMISSION OECD PARIS PRIORITY

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SUBJECT: OECD GOVERNMENT PROCUREMENT CODE

REFS: A. STATE 212904

B. EC BRUSSELS 7044

C. OECD PARIS 10789

1. SUMMARY: US OFFICIALS HAD A VERY PROFITABLE SERIES OF
MEETINGS WITH EC COMMISSION OFFICIALS ON THE OECD GOVERNMENT
PROCUREMENT CODE. MANY ISSUES WERE CLEARED UP AND THE US
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POSITION--PARTICULARLY THE DESIRE TO MOVE RAPIDLY ON THE

CODE--WAS BROUGHT HOME TO THE COMMISSION. THE COMMISSION PROMISED TO GIVE SERIOUS THOUGHT TO THE U.S. COMPROMISE PROPOSAL ON SURVEILLANCE/DISPUTES SETTLEMENT. END SUMMARY.

2. ON SEPTEMBER 12 POMERANZ (STR) AND NAYOR (EB/OT/STA) HAD A SERIES OF VERY USEFUL MEETINGS WITH EC COMMISSION OFFICIALS REGARDING THE OECD GOVERNMENT PROCUREMENT CODE. POMERANZ TOLD FERNAND BRAUN, THE EC COMMISSION DIRECTOR GENERAL FOR THE INTERNAL MARKET AND JEAN PIERRE DERISBOURG, THE COMMISSION'S REPRESENTATIVE TO THE TRADE COMMITTEE WORKING PARTY ON GOVERNMENT PROCUREMENT THAT THE US AND OTHER OECD COUNTRIES WANT TO BE IN A POSITION BY EARLY NEXT YEAR TO KNOW WHAT IS ACHIEVABLE ON THE GOVERNMENT PROCUREMENT CODE. AFTER EXPLAINING WHY THE TIME APPEARED PROPITIOUS TO MOVE RAPIDLY, POMERANZ EXPRESSED CONCERN BECAUSE OF HIS UNDERSTANDING THAT THE EC WAS NOT PREPARED TO MOVE FORWARD ON THE CODE UNTIL IT REACHED AGREEMENT ON ITS DRAFT DIRECTIVE ON GOVERNMENT PROCUREMENT. POMERANZ ALSO EXPRESSED CONCERN WITH THE LIMITED COVERAGE OF THE EC DRAFT DIRECTIVE (TRANSPORTATION AND POWER GENERATION ARE ALREADY EXCLUDED AND TELECOMMUNICATIONS AND DATA PROCESSING ARE LIKELY TO BE), AND BECAUSE OF OUR UNDERSTANDING THAT THE DRAFT DIRECTIVE REPRESENTS THE MAXIMUM COVERAGE WE CAN EXPECT THE EC TO AGREE TO IN THE CODE.

3. REGARDING THE RELATION ON THE TIMING OF THE DRAFT DIRECTIVE AND THE CODE, BRAUN SAID THAT ALTHOUGH THE MEMBER STATES MAY SOME DAY FEEL DIFFERENTLY, AT PRESENT THEY WOULD PREFER TO REACH AGREEMENT ON THE PRINCIPLE OUTSTANDING ISSUES OF THE DRAFT DIRECTIVE (SEE REFTEL B) BEFORE REACHING AGREEMENT ON THE IMPORTANT PARTS OF THE CODE. HE ALSO POINTED OUT THAT EVEN IF THE COMMISSION HAD NOT DECIDED ON A COORDINATING DIRECTIVE ON GOVERNMENT PROCUREMENT BUT HAD JUST GONE THE ROUTE OF ART. 30 OF THE ROME TREATY (ELIMINATION OF QUANTITATIVE RESTRICTIONS) TO ATTACK INTRA-COMMUNITY DISCRIMINATORY GOVERNMENT PROCUREMENT, LIMITED OFFICIAL USE

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THE EC COUNTRIES WOULD STILL BE REQUIRED TO COORDINATE THEIR POSITION UNDER ART. 116 OF THE ROME TREATY (COMMON ACTION IN INTERNATIONAL ECONOMIC ORGANIZATIONS).

4. REGARDING THE COVERAGE OF THE DRAFT DIRECTIVE AND ITS RELATION TO THE CODE, BRAUN SAID THAT THERE IS AN INTERPLAY BETWEEN THE WORK ON THE DRAFT DIRECTIVE AND THE CODE. ALTHOUGH THE SCOPE OF THE DRAFT DIRECTIVE

WOULD DEFINE THE EC'S POSITION ON THE CODE, WORK ON THE DRAFT DIRECTIVE IS BEING TAKEN WITH AN EYE ON THE OECD EXERCISE. THIS BEING SAID BRAUN SAID THAT TRANSPORTATION AND POWER GENERATION WERE EXCLUDED BECAUSE THE LEGAL STATUS OF THE BUYING ENTITIES WERE DIFFERENT IN THE DIFFERENT MEMBER STATES. TELECOMMUNICATIONS SEEMED TO PRESENT THE SAME PROBLEM. BRAUN STATED, HOWEVER, THAT EVEN IF THE DIRECTIVE FINALLY AGREED UPON IS OF LIMITED SCOPE, MORE BUYING ENTITIES WILL BE PUSHED BY THE COMMISSION TO OPEN PROCUREMENT TO EC PRODUCTS. THE TIME FRAME FOR SUCH OPENING IS, HOWEVER, UNCLEAR. WERE SUCH OPENING TO TAKE PLACE BRAUN DID NOT SEE HOW IT COULD BE EXTENDED TO THIRD COUNTRIES WITHOUT RECIPROCITY.

5. IN A SEPARATE DISCUSSION POMERANZ OBTAINED AGREEMENT FROM DERISBOURG THAT IT DID NOT MAKE SENSE TO SET UP A SUB-GROUP OF STATISTICAL EXPERTS TO DEFINE A STATISTICAL FRAMEWORK FOR SURVEILLANCE AS THE EC HAD SUGGESTED. DERISBOURG ALSO AGREED TO ENCOURAGE THE GERMANS TO BE MORE FORTHCOMING ON PROVIDING STATISTICS.

6. A VERY USEFUL DISCUSSION WITH RODERICK ABBOTT OF THE DIRECTORATE GENERAL ON EXTERNAL AFFAIRS FOCUSED ON THE US COMPROMISE PLAN FOR SURVEILLANCE AND DISPUTES SETTLEMENT (SEE REF C). POMERANZ EXPLAINED THE COMPROMISE THE US PRESENTED AT THE LAST WORKING PARTY AND ALSO WHY A SURVEILLANCE AND DISPUTES SETTLEMENT SYSTEM IN THE GOVERNMENT PROCUREMENT CODE DIFFERED FROM WHAT MAY BE REQUIRED IN OTHER NTB CODES. ABBOTT RAISED SEVERAL QUESTIONS ON THE COMPROMISE BUT CONCLUDED THAT THE COMMISSION NEEDED TO STUDY THE US PROPOSAL MORE DEEPLY. HE PROMISED LIMITED OFFICIAL USE

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THAT HE WOULD THINK ABOUT THE PROPOSAL AND THAT THE COMMISSION WOULD NOT GIVE A HOSTILE IMPRESSION AT THE WORKING GROUP UNTIL IT HAD REACHED A CONCLUSION. HE STATED HIS APPRECIATION THAT POMERANZ HAD COME TO EXPLAIN THE ISSUE AND THUS SET THE COMMISSION THINKING.

7. THIS CABLE WAS DRAFTED AFTER THE DEPARTURE OF POMERANZ AND NAYOR.

8. COMMENT: THE MISSION, AS NOTED ABOVE, FOUND THE MEETINGS VERY HELPFUL AND SHOULD ADVANCE WORK ON THE CODE. THEY ALSO PROVIDED BRAUN WITH AMMUNITION FOR MOVING THE DRAFT DIRECTIVE FORWARD. GREENWALD

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